

**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS**

ANTONIO MEDEROS,

Petitioner,

V.

BRUCE CHADBOURNE, *et al.*,

Respondents.

Civil Action No. 04-12598 GAO

FEDERAL RESPONDENTS' MOTION TO DISMISS

Pursuant to Rule 4 of the Rules Governing Section 2254 Cases in the United States District Courts,¹ which provides that a respondent may file an answer, motion, or other response to a petition for a writ of habeas corpus, and Rule 12(b)(6) of the Federal Rules of Civil Procedure, respondents Bruce Chadbourne, Interim Field Director for Detention and Removal, Boston Field Office, Bureau of Immigration and Customs Enforcement, Department of Homeland Security; Alberto Gonzales, Attorney General of the United States; and the Department of Homeland Security (hereafter “Federal Respondents”), hereby move to dismiss this matter for failure to state a claim upon which relief can be granted. The reasons for the foregoing motion are set forth in the accompanying Memorandum of Law and accompanying exhibits.

¹ Although the Rules Governing Section 2254 Cases are most directly applicable to habeas petitions filed by state prisoners pursuant to 28 U.S.C. § 2254, they also may be applied to habeas cases brought under 28 U.S.C. § 2241. See Rule 1(b); Bostic v. Carlson, 884 F.2d 1267, 1270 & n.1, (9th Cir. 1989).

Respectfully submitted,

MICHAEL J. SULLIVAN
United States Attorney

/s/ Mark T. Quinlivan
MARK T. QUINLIVAN
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Dated: February 25, 2005

CERTIFICATE UNDER L.R. 7.1

The federal respondents take the position that L.R. 7.1 requires “counsel” to confer and is not applicable where, as here, the opposing party is incarcerated and is appearing *pro se*. Alternatively, because the petitioner is currently confined in a correctional facility, counsel for the federal respondents respectfully requests leave to file this Motion without a 7.1 conference.

/s/ Mark T. Quinlivan
Mark T. Quinlivan
Assistant U.S. Attorney

CERTIFICATE OF SERVICE

I hereby certify that copy of the foregoing was served by mail, on February 25, 2005, upon Antonio Mederos, Massachusetts Treatment Center, 30 Administration Road, Bridgewater, MA 02324,.

/s/ Mark T. Quinlivan
Mark T. Quinlivan
Assistant U.S. Attorney